THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25899 of 1999

26.9.2005

Between:

V.Suryanarayana, S/o.Ganganna, Dugguduru village,

Kajuluru Mandal, East Godavari District.

... Petitioner

AND

1. The Government of A.P., rep. By its Secretary (Asn.I)

Revenue Department, Secretariat, Hyderabad.

And others.

... Respondents

ORDER:

The petitioner is an Ex-Serviceman. On an application made by the petitioner, he was assigned the land admeasuring Acs.2.50 in Survey No.169/2 of Dugguduru village in Kajuluru Mandal of East Godavari District. The land was handed over to the petitioner on 01.5.1978. The fourth respondent herein, which is a Fishermen Cooperative Society of Kajuluru village filed a suit being O.S.No.840 of 1977 on the file of the Additional District Munsif, Kakinada for injunction against the petitioner. The suit was dismissed on 06.8.1979. The appeal being A.S.No.188/1979 filed by the fourth respondent was also dismissed by the Court of Subordinate Judge, Kainada on 30.11.1981. Thereafter the fourth respondent filed Revision Petition before the Commissioner of Land Revenue against the assignment made to the petitioner. The same was dismissed on 27.7.1982, as not maintainable. Aggrieved by the same, the fourth respondent filed writ petition being W.P.No.6983 of 1982 before this Court. By an order dated 06.7.1987, this Court disposed of the said writ petition directing the fourth respondent to file Revision Petition before the Government with a direction to dispose of the same by giving opportunity to the concerned. By impugned memo dated 03.12.1998, the Government remanded the matter to the District Collector for disposal. This Order is assailed in the present writ petition.

It is the case of the petitioner that land in Survey No.169/2 is Government waste land, which was later converted into agricultural land and was assigned to the petitioner, who is an Ex-serviceman for cultivation and that the fourth respondent never in possession of the land. He relied on the fact that the suit and appeal filed by the fourth respondent were dismissed. According to the learned Counsel for the petitioner, the Government ought not to have remanded the matter to the District

Collector.

The learned Counsel for the fourth respondent, however, submits that the land in Survey No.169 is described as drainage canal/Atreya Godavari poramboke where the fourth respondent Society and other fishermen have been carrying on fishing operations for more than five decades and therefore, the assignment of the said land to the petitioner was illegal and contrary to Board Standing Orders. According learned Counsel for the fourth respondent, if a proper enquiry is conducted by the second respondent, these facts can be placed before him.

This Court while disposing of the W.P.No.6983 of 1982 on 06.7.1987 observed as under:

> In the circumstances, the petitioners are directed to approach the Government and file a petition within a period of one month from today raising all the available objections. On filing of such a petition, the Government shall give notice and opportunity to all the affected parties, including the petitioners, and pass orders according to law. Pending disposal of the said petition to be made, status quo with regard to possession shall continue. In case, the petitioners do not file the petition within the said period, it is open to the authorities to proceed with the matter according to law. With this direction, the writ petition is disposed of.

A reading of the above order would show that while giving liberty to the fourth respondent to approach the Government, this Court specifically directed the Government to give notice and opportunity to all the affected parties and pass orders according to law. Though in law, there is no prohibition for the Government to remand the matter to the District Collector, having regard to the nature of dispute, it would have been better if the Government itself had disposed of the matter. Only for the reason that the status report of the District Collector is awaited, the Government, without giving any reason, remanded the matter to the District Collector, which is not proper. For this reason alone, the impugned Government memo has to be set aside.

Accordingly, the impugned Memo is set aside with a direction to the District Collector to submit status report/remarks to the Government within a period of two weeks from the date of receipt of a copy of this order. After receiving the status report/remarks of the District Collector, the Government may pass appropriate orders on the Revision Petition submitted by the fourth respondent, within a period of ten days thereafter, after giving opportunity to the petitioner and fourth respondent of being heard. With the observations and directions, the matter stands remitted to the Government for fresh disposal in accordance with law.

The writ petition is, accordingly, disposed of. No costs.

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(**V.V.S.RAO,J**)

September 26, 2005.

NOTE:

Office to dispatch order

Tomorrow.

(B/o)

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